

)	
ROBERT KEELER and PATSY KEELER,)	
)	Civil Action No.
Plaintiffs,)	
v.)	<u>JURY TRIAL DEMANDED</u>
)	
NCO FINANCIAL SYSTEMS, INC.,)	
)	
Defendant.)	
)	

ROBERT KEELER and PATSY KEELER (“Plaintiffs”), by and through their attorneys,
KIMMEL & SILVERMAN, P.C., allege the following against NCO FINANCIAL SYSTEMS,
INC. (“Defendant”):

1. Plaintiffs' Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* ("FDCPA").

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

1 **PARTIES**

2 5. Plaintiffs are natural persons residing in Knoxville, Tennessee 37918.

3 6. Plaintiffs are persons granted a cause of action under the FDCPA. See 15 U.S.C.
4 §1692k(a) and Wenrich v. Cole, 2000 U.S. Dist LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

5 7. In the alternative, Plaintiffs are each a “consumer” as that term is defined by 15
6 U.S.C. §1692a(3).

7 8. Defendant is a national debt collection company with its corporate headquarters
8 located at 507 Prudential Road, Horsham, Pennsylvania 19044.

9 9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §1692a(6),
10 and repeatedly contacted Plaintiffs in an attempt to collect a debt of another person.

11 10. Defendant acted through its agents, employees, officers, members, directors,
12 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

13 **FACTUAL ALLEGATIONS**

14 11. At all pertinent times hereto, Defendant was hired to collect a consumer debt of
15 another person and repeatedly contacted Plaintiffs in its attempts to collect the debt of another
16 person.
17

18 12. Upon information and belief, the debt arose out of transactions that were
19 primarily for personal, family, or household purposes.

20 13. Plaintiffs do not owe the debt that Defendant was attempting to collect.

21 14. Plaintiffs did not consent to the placement of collection calls to their home
22 telephone by Defendant.

23 15. Beginning in or around April 2012, and continuing through June 2012, Defendant
24 continuously and repeatedly contacted Plaintiffs’ home telephone in its attempts to collect a debt
25

1 of another person.

2 16. During the relevant period, Defendant contacted Plaintiffs at least once a day,
3 every other day, causing Plaintiffs to receive between four (4) to five (5) collection calls a week.

4 17. In those instances where Plaintiffs answered the phone, it received pre-recorded,
5 automated messages advising that “NCO Financial” was “attempting to collect a debt” and to
6 call back “Carolyn Wright.” Defendant’s messages never gave Plaintiffs the option to speak
7 with a live person and after listening to the messages, Plaintiffs were not connected to a live
8 person.
9

10 18. When Plaintiffs did not answer Defendant’s collection calls, it left numerous,
11 pre-recorded voicemail messages on Plaintiffs’ home answering machine.

12 19. For example, Plaintiffs received the following voicemail message from
13 Defendant: “This is an important message from NCO Financial. We are attempting to collect a
14 debt and any information may be used for that purpose. Please call back Carolyn Wright at:
15 (877) 542-1405 and refer to ID Code 4i9zaj. This is NCO Financial and we are attempting to
16 collect a debt.”

17 20. Desiring to stop the collection calls, Plaintiff Robert Keeler (hereinafter “Mr.
18 Keeler”) called “(877) 542-1405,” to speak with “Carolyn Wright.”

19 21. However, Mr. Keeler was greeted with an automated message and was unable to
20 speak with “Carolyn Wright.”
21

22 22. Mr. Keeler was eventually directed to another collector.

23 23. During his conversation with the debt collector, Mr. Keeler instructed Defendant
24 to cease calling him.

25 24. In response, Defendant’s collector advised Mr. Keeler that, “[NCO] did not have

1 his number in its system,” and then stated that she would transfer him to another department,
2 leaving Plaintiff with the impression it had been contacting him about the debt of another
3 person.

4 25. However, Defendant never transferred him to a different department; rather,
5 Defendant disconnected the telephone call.

6 26. Furthermore, Defendant did not update its records to avoid the further harassment
7 of Plaintiffs.

8 27. Instead of ceasing its calls to Plaintiffs, Defendant continued to contact Plaintiff
9 continuously and repeatedly in its attempts to collect a debt.

10 28. The repetitive calls to Plaintiff were disturbing, harassing, and an invasion of
11 their privacy, as it was inconvenient for Plaintiffs to receive repetitive debt collection calls on
12 their home telephone for another person.

13 29. Finally, if Defendant was contacting Plaintiffs in an attempt to collect a debt
14 allegedly owed by them, Defendant failed, within five (5) days of its initial contact with
15 Plaintiffs, to send Plaintiffs written notification of their rights to dispute the debt and/or request
16 verification of the alleged debt as well as providing them with information about the debt,
17 including the amount of the debt and the name of the creditor.

18 30. As a result, Plaintiffs were unaware of the amount of the debt, the name of the
19 creditor, and their rights to dispute the debt and/or request verification of the debt.

20 31. Upon information and belief, Defendant contacted Plaintiffs on a repetitive and
21 continuous basis with the intent of harassing, annoying and abusing them.
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

32. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§1692d and 1692d(5).

- a. A debt collector violates §1692d of the FDCPA by engaging in conduct of the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
- b. A debt collector violates §1692d(5) of the FDCPA by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number.
- c. Here, Defendant violated §§1692d and 1692d(5) of the FDCPA by continuously calling Plaintiffs' home telephone, at least, once a day every other day, and as frequently as four (4) to five (5) times a week, with the intent to annoy, abuse, and harass Plaintiffs.

COUNT II

33. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §1692f.

- a. A debt collector violates §1692f of the FDCPA by using unfair or unconscionable means to collect or attempt to collect any debt.
- b. Here, Defendant violated §1692f of the FDCPA engaging in other unfair and unconscionable debt collection practices, including failing to update its

1 records to avoid further collection calls to Plaintiffs as well as claiming that
2 they would transfer Plaintiffs to another department to have their telephone
3 number removed from the database and instead hanging up on Plaintiffs.

4 **COUNT III**

5 34. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.
6 §1692g(a) of the FDCPA.

7 a. A debt collector violates §1692g(a) of the FDCPA by failing to send to the
8 consumer, within five days after its initial communication with a consumer in
9 connection with the collection of a debt, a written notice containing: (1) the
10 amount of the debt; (2) the name of the creditor to whom the debt is owed; (3)
11 a statement that unless the consumer, within thirty days after receipt of the
12 notice, disputes the validity of the debt, or any portion thereof, the debt will be
13 assumed to be valid by the debt collector; (4) a statement that if the consumer
14 notifies the debt collector in writing within the thirty-day period that the debt,
15 or any portion thereof, is disputed, the debt collector will obtain verification of
16 the debt or a copy of a judgment against the consumer and a copy of such
17 verification or judgment will be mailed to the consumer by the debt collector;
18 and (5) a statement that, upon the consumer's written request within the thirty-
19 day period, the debt collector will provide the consumer with the name and
20 address of the original creditor, if different from the current creditor.

21 b. Here, Defendant violated §1692g of the FDCPA by failing to send written
22 notification, within five (5) days after its initial communication with Plaintiffs,
23 advising Plaintiffs of their rights to dispute the debt or request verification of
24
25

1 the debt.

2 WHEREFORE, Plaintiffs, ROBERT KEELER and PATSY KEELER, respectfully pray
3 for a judgment as follows:

- 4 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
5 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to
6 15 U.S.C. § 1692k(a)(2)(A);
7 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
8 costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
9 d. Any other relief deemed appropriate by this Honorable Court.
10

11 **DEMAND FOR JURY TRIAL**

12 PLEASE TAKE NOTICE that Plaintiffs, ROBERT KEELER and PATSY KEELER,
13 demand a jury trial in this case.
14

15 RESPECTFULLY SUBMITTED,

16 DATE: 10/19/2012

KIMMEL & SILVERMAN, P.C.

17 By: /s/ Amy L. Bennecoff
18 Amy L. Bennecoff, Esq.
19 BPR # 28563
20 Kimmel & Silverman, P.C.
21 30 E. Butler Avenue
22 Ambler, PA 19002
23 Phone No.: 215-540-8888
24 Fax No.: 877-788-2864
25 Email: abenecoff@creditlaw.com
Attorney for Plaintiffs